

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

TAMMY SUE AREVALOS,)	
)	
Plaintiff,)	
)	
v.)	No. 4:19-cv-00246-TWP-DML
)	
PHIL EMILY Assistant Jail Commander, et al.)	
Defendants.)	

Entry Screening Complaint and Directing Issuance of Process

Plaintiff Tammy Sue Arevalos, at relevant times a pretrial detainee at the Scott County Detention Center, filed this action pursuant to 42 U.S.C. § 1983, alleging that the conditions of her confinement were unconstitutional. Ms. Arevalos's first complaint was dismissed, and she filed an amended complaint. Because Ms. Arevalos is a "prisoner," the Court must screen her amended complaint, *dk.* [16], before service on the defendant. 28 U.S.C. § 1915A(a), (c).

I. Screening Standard

The Court must dismiss the amended complaint if it is frivolous or malicious, fails to state a claim for relief, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915A(b). In determining whether the complaint states a claim, the Court applies the same standard as when addressing a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). *See Cesal v. Moats*, 851 F.3d 714, 720 (7th Cir. 2017).

II. The Complaint

Ms. Arevalos names the following defendants in her amended complaint: (1) Phil Emily; (2) Dakota Johnson; and (3) Mr. Arrowood.

Ms. Arevalos alleges that the defendants subjected her to unconstitutional conditions of confinement while she was a pretrial detainee at the Scott County Sheriff Detention Center. In

January 2018, Mr. Arrowood, under Dakota Johnson's orders, placed Ms. Arevalos in the segregation unit after she fought with another inmate. The cell was contaminated with feces and parasites. Ms. Arevalos asked for cleaning supplies and was provided with a mop, broom, plunger, and trash bag, but no disinfectant, cleaner, or any personal protective gear. Ms. Arevalos asked Mr. Arrowood and Mr. Johnson for additional cleaning supplies but received none. She was in the contaminated cell for seven days.

While in segregation, Ms. Arevalos was fed a substance calledutraloaf. Ms. Arevalos has food allergies and asked Mr. Emily and the nurses about the ingredients in theutraloaf, but all they knew was that it contained a variety of food that was pureed and then baked. Ms. Arevalos vomited and had diarrhea after eating theutraloaf. Ms. Arevalos complained to Mr. Emily about theutraloaf, and he said there was nothing he could do because it was policy to serveutraloaf to inmates in segregation. Because that was the only food provided to her, Ms. Arevalos ate nothing for the following six days and lost ten pounds.

Four days after she was released from segregation, Mr. Emily "verbally assaulted" Ms. Arevalos, causing her distress.

In response to the stress, Ms. Arevalos cut her wrists with a mirror edge. Mr. Emily ordered Mr. Johnson, Mr. Arrowood, and a female officer to remove Ms. Arevalos from her cell and place her in a padded cell for observation. Because she resisted, Mr. Johnson removed Ms. Arevalos from the cell with force, bruising her arms.

Ms. Arevalos was kept in the padded cell for eight days. That cell had nothing but four padded walls and a hole in the floor as the bathroom. During the eight days she was in the cell, the hole overflowed twice, and Ms. Arevalos was not provided cleaning supplies. The defendants laughed about the cell extraction and the conditions of the padded cell. Ms. Arevalos was briefly

removed from the cell so she could use a restroom, and then was returned to the cell for another five days.

During the two and a half weeks she was held in segregation and the padded cell, Ms. Arevalos was humiliated, mentally abused, depressed, and suicidal.

Ms. Arevalos seeks punitive damages and a declaration that the defendants violated her civil rights.

Ms. Arevalos's Fourteenth Amendment conditions-of-confinement claims **shall proceed** against the defendants as submitted.¹ Additionally, an excessive force claim **shall proceed** against Mr. Johnson. While Ms. Arevalos states in her complaint that these claims are brought under the Eighth and Fourteenth Amendments, the Fourteenth Amendment applies because she was a pre-trial detainee at the time of her allegations.

III. Service of Process

The **clerk is directed** pursuant to Federal Rule of Procedure 4(c)(3) to issue process to defendants (1) Phil Emily; (2) Dakota Johnson; and (3) Mr. Arrowood in the manner specified by Federal Rule of Civil Procedure 4(d). Process shall consist of the amended complaint, dkt. [16], applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Order.

The **clerk is directed** to add Mr. Arrowood as a defendant on the docket.

¹ The Court notes that the incident in which Mr. Emily verbally assaulted Ms. Arevalos does not alone constitute a constitutional violation. "Standing alone, simple verbal harassment does not constitute cruel and unusual punishment, deprive a prisoner of a protected liberty interest or deny a prisoner equal protection of the law." *Dewalt v. Carter*, 224 F.3d 607, 613 (7th Cir. 2000). However, the Court interprets her allegation not as an isolated claim but as part of a pattern of mistreatment that Ms. Arevalos alleges occurred during her two-and-a-half weeks at the detention center. *See Beal v. Foster*, 803 F.3d 356, 357–59 (7th Cir. 2015) (noting distinction between verbal and physical harassment is arbitrary, and some verbal harassment may rise to the level of cruel and unusual punishment where it inflicts psychological harm).

IV. Conclusion

Ms. Arevalos's Fourteenth Amendment claims shall proceed as submitted against the defendants.

Ms. Arevalos's motion to proceed *in forma pauperis*, dkt. [15], is **granted** to the extent the Court already permitted Ms. Arevalos to proceed *in forma pauperis*. Dkt. 5.

IT IS SO ORDERED.

Date: 6/12/2020



TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

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Mr. Arrowood
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